

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

NICKELS AND DIMES
INCORPORATED,

Plaintiff,

v.

NOAH'S ARCADE, LLC, et al.,

Defendants.

CASE NO. 3:23-CV-699-DRL-MGG

ORDER

On October 17, 2023, the parties were ordered to submit a joint proposed report no later than November 14, 2023. On November 14, 2023, Plaintiff filed a Report of Parties' Planning Meeting indicating that the parties participated in a planning meeting on October 5, 2023. After the meeting, Plaintiff prepared a draft report of parties' planning and sent it to Defendants for final review and comment. But Defendants never responded to Plaintiff's requests. As a result, Plaintiff's proposed discovery plan does not include final agreement from Defendants. Although Defendants failed to respond to Plaintiff's requests for confirmation of the draft report, Defendants did file a Motion to Continue the Preliminary Pretrial Conference. In this motion, Defendants explain that their counsel has a medical procedure and therefore cannot attend the conference.

Based on Defendants' failure to provide final confirmation to Plaintiff's draft report as well as Defendants' counsel's unavailability, the Rule 16(b) Preliminary Pretrial Conference scheduled for November 29, 2023, at 11:15 a.m. is **VACATED**. [DE

15, DE 17]. Defendants are further **ORDERED** to comply with the Court's order and submit a Rule 26(f) Report of Parties' Planning that either adopts Plaintiff's proposed discovery plan [DE 18] or presents an alternative proposal on or before **December 1, 2023**.

This cause is now set for a **Telephonic Rule 16 Preliminary Pretrial Conference** before Magistrate Judge Michael G. Gotsch, Sr., to be held on **Wednesday, December 6, 2023, at 11:00 a.m. (E.S.T.)**. Trial counsel are required to participate. To connect to the conference, parties should dial 833-568-8864, enter meeting ID number 160 4237 7854#, push # to skip entry of a participant ID and enter passcode 356255# at least five minutes before the conference start time.

SO ORDERED this 20th day of November 2023.

/s/Michael G. Gotsch, Sr.
Michael G. Gotsch, Sr.
United States Magistrate Judge